

1 Anna Hsia (SBN 234179)
2 ZWILLGEN LAW LLP
3 369 Pine Street, Suite 506
4 San Francisco, CA 94104
5 Telephone: (415) 590-2335
6 Facsimile: (415) 636-5965
7 anna@zwillgen.com

8 Jeffrey Landis (*pro hac vice*)
9 Zach Lerner (*pro hac vice*)
10 ZWILLGEN PLLC
11 1900 M Street, NW, Suite 250
12 Washington, DC 20036
13 Telephone: (202) 296-3585
14 Facsimile: (202) 706-5298
15 jeff@zwillgen.com
16 zach@zwillgen.com

17 Attorneys for Plaintiff
18 BIRD RIDES, INC.

19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
20 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

21 BIRD RIDES INC.,

22 Plaintiff,

23 v.

24 TALON AUTO, INC., JOHN HEINKEL,
25 SCOOTER REMOVAL LLC, DANIEL
26 BORELLI INDIVIDUALLY AND DBA
27 BOARDWALK ELECTRIC RIDES,

28 Defendants.

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

01/05/2022 at 09:14:00 AM

Clerk of the Superior Court
By E- Filing, Deputy Clerk

Case No.: 37-2019-00015016-CU-BT-CTL

**BIRD RIDES INC.'S ESTIMATE OF
COSTS AND DAMAGES**

"IMAGED FILE"

Judge: Hon. Richard S. Whitney

Dept: C-68

Action Filed: March 20, 2019

Trial Date: May 13, 2022

1 The parties appeared before this Court on December 17, 2021 to hear arguments on Bird
2 Rides Inc.'s ("Bird") Application for a Writ of Possession ("Application"). On December 21, 2021
3 the Court issued an Order ("Order") granting Bird's Application. In that Order, the Court instructed
4 Bird to provide an estimate of costs and damages it would "sustain by reason of the loss of
5 possession of the property." Order at 4.

6 The October 29, 2021 Declaration of Ting Ting Guo in Support of Bird's Ex Parte
7 Application for an Order to Shorten Time ("October 2021 Guo Declaration") estimated that, as of
8 that date, Defendants were holding approximately 6,000 Bird scooters. Defendants continued to
9 impound Bird's scooters between October 29, 2021 and the date of the Order, and continue to
10 impound them through today. *See* January 4, 2022 Declaration of Ting Ting Guo ("Guo Decl."), ¶
11 2. Bird generates revenue by deploying scooters to customers who pay to ride those scooters. As a
12 general matter, the more scooters Bird can deploy the more money it can earn. *Id.* ¶ 3. Based on its
13 analysis, Bird's conservative estimate of the revenue it lost between November 2018 and the date of
14 the Order from not being able to deploy the scooters Defendants improperly impounded and held is
15 approximately \$11.7 million. *Id.* ¶ 4. A non-conservative estimate of Bird's lost revenues from not
16 being able to deploy those scooters during that same period is approximately \$22.9 million. *Id.* ¶ 5.

17 Bird will suffer additional losses if Defendants keep possession of the scooters that are the
18 subject of the Order. Bird conservatively estimates that it will lose an additional approximately
19 \$2.5 million in revenue in 2022 from not being able to deploy just the scooters Defendants
20 impounded that are the subject of the Order. *Id.* ¶ 6. Moreover, if Defendants impound additional
21 scooters at their current rate of impoundment in 2022, Bird conservatively estimates it will lose an
22 additional approximately \$2.5 million in revenue from such newly impounded scooters (for a total
23 revenue loss of \$5 million in 2022). *Id.* ¶ 7.

24 In light of the foregoing, even if using the most conservative figures, Bird estimates losses
25 of at least \$14 million from Scooter Removal's improper impounding and holding of Bird's
26
27
28

1 scooters. This does not include the loss in value of the scooters themselves,¹ statutory damages
2 available to Plaintiff under the California Vehicle Code, or the costs and fees of this litigation.
3

4 DATED: January 5, 2022

ZWILLGEN PLLC

5 By: Jeff Landis

6 Jeffrey Landis (*pro hac vice*)

7 jeff@zwillgen.com

8 **Attorney for Plaintiff**

9 BIRD RIDES, INC.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

28 ¹ As noted in the October 2021 Guo Declaration, Bird values each of its scooters taken at approximately \$500 to \$1,200 each, depending upon the model of the scooter. October 2021 Guo Declaration, ¶ 3.

1 Anna Hsia (SBN 234179)
2 ZWILLGEN LAW LLP
3 369 Pine Street, Suite 506
4 San Francisco, CA 94104
5 Telephone: (415) 590-2335
6 Facsimile: (415) 636-5965
7 anna@zwillgen.com

8 Jeffrey Landis (*pro hac vice*)
9 Zach Lerner (*pro hac vice*)
10 ZWILLGEN PLLC
11 1900 M Street, NW, Suite 250
12 Washington, DC 20036
13 Telephone: (202) 296-3585
14 Facsimile: (202) 706-5298
15 jeff@zwillgen.com
16 zach@zwillgen.com

17 Attorneys for Plaintiff
18 BIRD RIDES, INC.

19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, CENTRAL DIVISION

13 BIRD RIDES INC.,

14 Plaintiff,

15 v.

16 TALON AUTO, INC., JOHN HEINKEL,
17 SCOOTER REMOVAL LLC, DANIEL
18 BORELLI INDIVIDUALLY AND DBA
19 BOARDWALK ELECTRIC RIDES,

20 Defendants.

Case No.: 37-2019-00015016-CU-BT-CTL

**DECLARATION OF TING TING GUO IN
SUPPORT OF BIRD RIDES INC.'S
ESTIMATE OF COSTS AND DAMAGES**

“IMAGED FILE”

Judge: Hon. Richard S. Whitney

Dept: C-68

Action Filed: March 20, 2019

Trial Date: May 13, 2022

1 I, TING TING GUO, declare as follows:

2 1. I am the Senior General Manager at Bird Rides, Inc. I oversee operations for several
3 cities, including San Diego. I am over the age of eighteen and have personal knowledge of the facts
4 set forth in the declaration. If called to testify, I could and would testify competently thereto.

5 2. Defendants continued to impound Bird's scooters between October 29, 2021 and
6 December 21, 2021, and are continuing to impound Bird scooters through the present.

7 3. As a general matter, the more scooters Bird can deploy the more money it can earn.

8 4. Based on its internal analysis, Bird's conservative estimate of the revenue it lost
9 between November 2018 and December 21, 2021 from not being able to deploy the scooters
10 Defendants were holding is approximately \$11.7 million.

11 5. A non-conservative estimate of Bird's lost revenues from not being able to deploy
12 those scooters during that same period is approximately \$22.9 million.

13 6. Bird conservatively estimates that it will lose an additional approximately \$2.5
14 million in revenue in 2022 from not being able to deploy just the scooters Defendants impounded
15 that are the subject of the Court's December 21, 2021 Order.

16 7. If Defendants impound additional scooters at their current rate of impoundment in
17 2022, Bird conservatively estimates it will lose an additional approximately \$2.5 million in revenue
18 from such newly impounded scooters (for a total revenue loss of \$5 million in 2022).

19 I declare under penalty of perjury under the laws of the State of California that the foregoing is true
20 and correct.
21

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

Executed this 4th day of January, 2022 in San Diego, California.



Ting Ting Guo

1 Bird Rides Inc. v. Talon Auto Inc., et al.
2 San Diego County Superior Court
3 Case No. 37-2019-00015016-CU-BT-CTL

4 **PROOF OF SERVICE**

5 I am a citizen of the United States; I am over the age of eighteen years, and not a party to the
6 within action; my business address is 1900 M Street NW, Suite 250, Washington, D.C. 20036. On
7 the date set forth below I served **BIRD RIDES INC.'S ESTIMATE OF COSTS AND**
8 **DAMAGES AND DECLARATION OF TING TING GUO IN SUPPORT THEREOF** on the
9 following person(s) in this action:

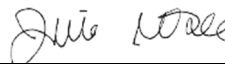
10 Robert W. Frank
11 Marisa D. Sarti
12 Neil, Dymott, Frank, McCabe & Hudson
13 A Professional Law Corporation
14 110 West A Street, Suite 1200 San Diego, CA 92101
15 Tel. 619-238-1712
16 Fax: 619-238-1562
17 rfrank@neildymott.com
18 msarti@neildymott.com
19 *Attorneys for Defendants Talon Auto, Inc, John Heinkel,*
20 *Scooter Removal LLC, Daniel Borelli dba Boardwalk*
21 *Electric Rides, and Daniel Borelli*

22 ☐ (VIA MAIL -- CCP §§ 1013(a), 2015.5) By placing a true copy thereof enclosed in a sealed envelope(s),
23 addressed as above, and placing each for collection and mailing on that date following ordinary business practices. I am
24 readily familiar with my firm's business practice of collection and processing of correspondence for mailing with the
25 U.S. Postal Service and correspondence placed for collection and mailing would be deposited in the U.S. Postal Service
26 at Washington, D.C., with postage thereon fully prepaid, that same day in the ordinary course of business.

27 ☐ (VIA PERSONAL DELIVERY -- CCP §§ 1011, 2015.5) By placing a true copy thereof enclosed in a sealed
28 envelope(s), addressed as above, and causing each envelope(s) to be hand delivered on that day by , in the ordinary
course of my firm's business practice.

☒ (E-MAIL OR ELECTRONIC TRANSMISSION -- CCP §§ 1013, 2015.5) Based on a court order or an
agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the
persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any
electronic message or other indication that the transmission was unsuccessful.

I declare that I am employed in the office of a member of the bar of this court at whose
direction the service was made. Executed on January 5, 2022 at Greenbelt, MD.



Jamie Moses